

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BOAZ PLEASANT-BEY,)
)
) Plaintiff,)
 vs.) No. 3:19-CV-00486
)
 STATE OF TENNESSEE, et al.,)
)
) Defendants.)
)
 _____)

DEPOSITION OF RUSSELL WASHBURN,

Taken on Behalf of the Plaintiff, 9:00 a.m.,
Monday, August 23, 2021, via Zoom, before:

BRIGGS & ASSOCIATES
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Nashville, Tennessee 37201
(615) 482-0037
MARTA G. HARRA
Licensed Court Reporter # 468
Certified Court Reporter #0317

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1 S T I P U L A T I O N S

2

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4 The deposition of RUSSELL WASHBURN, taken on
5 behalf of the Plaintiff on Monday, August 23, 2021,
6 via Zoom, for all purposes under the Tennessee
7 Rules of Civil Procedure.

8 The formalities as to notice, caption,
9 certificate, et cetera, are waived. All
10 objections, except as to the form of the questions,
11 are reserved to the hearing.

12 It is agreed that MARTA G. HARRA, being a
13 Licensed Court Reporter and Certified Court
14 Reporter for the State of Tennessee, may swear the
15 witness, and that the reading and signing of the
16 completed deposition by the witness are waived.

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Marta G. Harra, LCR, CCR (931) 626-4952

1 RUSSELL WASHBURN,

2 was called as a witness, and after having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MS. HERZFELD:

5 Q. Okay, Warden Washburn, my name is Tricia Herzfeld.
6 I'm an attorney for Mr. Pleasant-Bey. I deposed
7 you before.

8 How are you doing?

9 A. Good. How about you?

10 Q. Good. It's been, what, a month or so, since we've
11 seen each other over Zoom?

12 A. Yes, ma'am.

13 Q. Oh, very good.

14 And has anything changed in the interim since
15 we did your last deposition about your position or
16 any of your background?

17 A. No, ma'am.

18 Q. Okay, great.

19 And you understand that you're here today
20 pursuant to a notice, a 30(b)(6) Notice, which
21 means you're testifying as a representative of
22 CoreCivic?

23 A. Yes, ma'am.

24 Q. Okay. And have you had an opportunity to look over
25 the notice and the topics that you've been

1 designated on?

2 A. Yes, ma'am.

3 Q. Okay, great. Give me one second.

4 A. And I have that in front of me. So if you see me
5 looking down, that's what I'll be looking at.

6 Q. Well, great, because that's actually what I was
7 going to -- that's actually what I was going to
8 give you, as soon as I figure out how to drop in
9 the exhibits.

10 MS. HERZFELD: To the court reporter, I
11 know we provided exhibits ahead of time. Did you
12 want to put them up or did you want us to drop them
13 into the chat?

14 THE REPORTER: I prefer you take care of
15 that. I've got all I can do writing down what you
16 guys are saying.

17 MS. HERZFELD: Oh, okay, great. Then I
18 will go ahead and take care of that.

19 THE REPORTER: Thank you.

20 (Marked Exhibit No. 1, Re-Notice of
21 Deposition Pursuant to Rule 30(b)(6) and Document
22 Requests Pursuant to Rule 34 to Defendant
23 CoreCivic; Exhibit No. 6, Two-Page December 12,
24 2019 Email Chain; and Exhibit No. 7, 4/7/2020
25 Letter from Inmate Daniel Nielers (ph) and a

1 discussion was held off the record.)

2 Q. (BY MS. HERZFELD) Okay, just give me one second.

3 Okay. Exhibit 1 should be the 30(b)(6) Notice
4 in the chat.

5 Do you see that, Warden Washburn?

6 A. Yes, ma'am. I'm just hitting download.

7 Q. Great.

8 A. Should it automatically open?

9 Q. Nope. I think you have to click on it and open it.

10 Goodness. Maybe we'll just do it as a share
11 screen.

12 A. Yeah, because I'm not sure where it's trying to
13 make me save it at.

14 Q. Okay, that's fine.

15 MS. HERZFELD: Okay. Let's go off the
16 record for just one second while we get this set up
17 and maybe I can just put them all up kind of, you
18 know, one at a time in the chat.

19 (A discussion was held off the record.)

20 Q. (BY MS. HERZFELD) Okay, Warden Washburn.

21 A. Yes, ma'am.

22 Q. Okay. And do you see in front of you on the screen
23 Exhibit 1, which is the 30(b)(6) Notice?

24 A. I did, but it's not -- I can't see it any longer.

25 Q. What do you see now? Do you see my face?

1 A. I see your face and then off to the right I have
2 the chat open and so I can see the documents listed
3 out, but I can't actually see the document.

4 Q. Okay. Hold on one second. Let's try it again.
5 How about now?

6 A. Yes, ma'am.

7 Q. Do you see the notice?

8 A. I do, yes, ma'am.

9 Q. Okay, great. Wonderful.

10 Okay. And you've had an opportunity to review
11 this notice with your attorneys?

12 A. Yes, I have.

13 Q. And you feel prepared to testify on all of these
14 topics?

15 A. Yes, ma'am.

16 Q. Okay. In advance of today's deposition did you
17 review your previous deposition given in this case?

18 A. Yes.

19 Q. Okay. And do you wish to change any of that
20 testimony that you gave at that time?

21 A. No.

22 Q. Okay. And that's all correct for today's testimony
23 as well?

24 A. Yes, ma'am.

25 Q. Okay. If I were to ask you the same questions in

1 your capacity as the CoreCivic representative that
2 I asked you in your personal capacity as the
3 warden, would those answers be the same?

4 A. Yes, ma'am.

5 Q. Okay, great. Then we can move on from Exhibit 1.

6 MR WELBORN, III: And, Tricia, can I say
7 something real quick?

8 MS. HERZFELD: Sure.

9 MR WELBORN, III: We're designating him
10 on topics -- the first two topics, not the
11 religious portion of it. I'm scrolling down to see
12 what sections that is. But I think we talked --
13 actually it's probably been over a month ago that
14 we talked to you about this, that on the religious
15 topics we were going to look at the deposition and
16 designate our -- you know, the chaplain as the
17 person on that and designate his testimony and see
18 if that's satisfactory to you. Or if you had
19 follow-up questions, we're happy to put him up
20 again. I just wanted to clarify.

21 MS. HERZFELD: Well, I don't think I
22 quite understood that, so that will make today's a
23 little bit shorter. Some of the exhibits that I
24 think I put in the chat have to do with religious
25 stuff. So maybe we can just talk afterwards and

1 see if there's a short way that we can deal with
2 the chaplain on those.

3 MR WELBORN, III: Sure.

4 MS. HERZFELD: Okay, great.

5 Q. (BY MS. HERZFELD) This will make this a lot
6 shorter then, Warden Washburn.

7 MS. HERZFELD: So it's Topics 1 and 2,
8 Joe?

9 MR WELBORN, III: Yeah.

10 MS. HERZFELD: Okay.

11 A. When you're saying 1 and 2, that's A and B,
12 correct, under the notice?

13 MS. HERZFELD: You said Topics 1 and 2,
14 so I'm assuming that's staffing --

15 MR WELBORN, III: It's staffing and, I
16 think, it's the violence.

17 THE WITNESS: That's correct. That's
18 what I'm trying -- on my notice.

19 MR WELBORN, III: Yeah. I meant -- I
20 said 1 and 2. It's A and B.

21 MS. HERZFELD: A and B? Okay.

22 MR WELBORN, III: And C is what we're
23 designating the chaplain for.

24 MS. HERZFELD: Okay. Very good. So A
25 and B. Perfect.

1 Q. (BY MS. HERZFELD) Okay. So with that
2 clarification we'll move forward with some of the
3 questions that I have for you to today.

4 Are you prepared to testify today,
5 Mr. Washburn?

6 A. Yes, ma'am.

7 Q. Okay. And are you sick or have any sort of
8 physical issues going on that would prevent you
9 from giving honest and accurate testimony today?

10 A. No, ma'am.

11 Q. Okay. I'm going to skip Exhibits 2, 3, 4, and 5
12 that were previously marked in a chat because those
13 have to do with religious accommodations, so we'll
14 skip directly to Exhibit No. 6.

15 (Mr. Aumann joined the deposition via
16 Zoom.)

17 Q. (BY MS. HERZFELD) Do you see an email in front of
18 you, Mr. Washburn?

19 A. Yes, ma'am, I do.

20 Q. Okay, great. And will you take a minute and please
21 read this deposition -- or this email? I'll go
22 slowly if you need it or you can download it on
23 your computer and read it yourself.

24 A. All right. So am I going to start at the top or at
25 the bottom?

1 Q. However you would prefer. Would you like for me to
2 start at the bottom?

3 A. Please, so I can kind of -- the context will follow
4 in order.

5 I would assume that's the order it would go
6 in; correct?

7 Q. Yep.

8 A. Okay.

9 Q. Okay. We'll start here where it says
10 December 12th, 2019, at 7:52. Do you see it? Can
11 you read it?

12 A. Yes, ma'am.

13 Q. Okay, great. Just let me know when you're
14 finished.

15 A. (The witness reviewed the document.)

16 Q. Okay. Here's the response from Denise Davidson.

17 A. (The witness reviewed the document.) Okay.

18 Q. And then the response from Jennifer Petty.

19 And just tell me when you need for me to
20 scroll down.

21 A. Yes, ma'am. (The witness reviewed the document.)

22 Okay. (The witness continued to review the
23 document.) Okay.

24 Q. Okay. You've had an opportunity to read this
25 document?

1 A. Yes, ma'am.

2 Q. Okay. My first question is: Do you know who
3 Jennifer Petty is?

4 A. I do not recall the name off the top of my head,
5 no.

6 Q. Okay. What about Denise Davidson?

7 A. Yes. She was the assistant warden of support
8 services.

9 Q. And would she have reported directly to you?

10 A. She would have.

11 Q. Okay. And what I've shown you here is a series of
12 emails between Ms. Petty and Ms. Davidson dated
13 December 12th, 2019; is that correct?

14 A. Yes, ma'am.

15 Q. And the email addresses that are on these emails
16 indicate that they are from a CoreCivic and to a
17 CoreCivic email address?

18 A. That's correct.

19 Q. Okay. And what is a 51C?

20 A. It's actually a 5-1C. A 5-1 is the incident
21 reporting policy, and "C" would reference the
22 actual attachment to that policy which, in this
23 case, would be a statement.

24 Q. Okay. And what is Alpha Alpha, an Alpha Alpha
25 inmate?

1 A. That would be a pod that was located -- or is
2 located within the restricted housing unit.

3 Q. Okay. And when you say "restricted housing unit,"
4 what do you mean?

5 A. It would be a unit where we detain -- inmates would
6 be placed either for some type of administrative
7 investigation or some type of disciplinary
8 violation.

9 Q. Okay. Is there a particular mental health pod or
10 ward?

11 A. Not within this particular unit, no. Housing,
12 specifically for mental health, would be completed
13 in the medical department. Not to say a person
14 that has a mental health diagnosis could not be
15 here. But if there's a mental health crisis that
16 was causing the person to be housed, they would not
17 be housed here, they would be housed in medical.

18 Q. Okay. And taking a look at this email from the
19 bottom up, as you had the opportunity to review it,
20 it looks, from this email, like Ms. Petty is
21 reporting that a prisoner had told her that he was
22 raped by a gang member that Sunday night; is that
23 correct?

24 A. Based on what's in the email, yes.

25 Q. Okay. And what happens, from a procedure

1 standpoint, when an inmate reports a rape?

2 A. They would then be screened by medical. The staff
3 member would keep that person under supervision,
4 separate them if the alleged aggressor is within
5 that location. They would separate the
6 individuals, the alleged victim would be screened
7 by both medical and mental health, and then a
8 determination on whether or not the person would
9 need to go out -- go out to outside treatment or
10 evaluation would be made by the medical department.

11 And then we would start the investigation and
12 as well notify TDOC and any other criminal law
13 enforcement that was necessary.

14 Q. Okay. And it's your understanding that those
15 actions are mandated by the Prison Rape Elimination
16 Act?

17 A. Yes, they are.

18 Q. Okay. And in this email in particular Ms. Petty is
19 indicating that the prisoner had a small scratch on
20 the left side of his nose and a scratch on the top
21 right side of his lip which he said happened during
22 the rape; is that right?

23 Sorry.

24 A. That's all right. I'm just rereading the email.

25 Q. Sure.

1 A. (The witness reviewed the document.) Yes, ma'am,
2 that's his allegation, based off of this email.

3 Q. Okay. And then in response Denise Davidson, who
4 you said was the assistant warden --

5 A. That's correct.

6 Q. -- who reported to you; is that correct?

7 A. That's correct.

8 Q. Okay. She says, "Inmate Wampler in Alpha Bravo
9 indicates he is suppose to receive a KOP after he
10 recently saw Leveck. Can you check on this?"

11 First off, what is Alpha Bravo?

12 A. That's another pod within the restricted housing
13 that would be directly beside the Alpha Alpha pod.

14 Q. Okay. And what is a KOP?

15 A. Keep on person medication.

16 Q. Okay. And what is that?

17 A. It means it's a medication that medical has
18 determined that it would be appropriate for the
19 inmate to keep in his possession. And it's
20 typically in blister packs by the day.

21 Q. Okay. And could you give me some types of examples
22 of what type of medication would be keep on person?

23 A. I'm not a medical person, so I wouldn't -- I can't
24 tell you today without looking at what would be
25 approved.

1 Q. Okay. Well, do you think narcotics would be
2 approved for something like that?

3 A. No.

4 Q. Okay. So it's something more like Tylenol?

5 A. Yes, ma'am.

6 Q. Okay. And do you know why it is in response to
7 this issue about Inmate Culberson who said he was
8 raped, the response then is about Inmate Wampler?

9 A. I do not know, no.

10 Q. Okay. Do you see any indication that Inmate
11 Wampler has anything to do with the rape that was
12 reported by Inmate Culberson?

13 A. Not from the documents that I'm reviewing here.

14 Q. Okay. And who is Latanya Moore?

15 A. She was the -- I believe her title is clinical
16 supervisor. She worked in the medical department.

17 Q. Okay. And Wyllis Smith, do you know who that is?

18 A. I do not recall off the top of my head, no.

19 Q. Okay. And Rafael Peralta, do you know who that --

20 A. I believe he was the former health service
21 administrator.

22 Q. Okay. And then going back to her response here she
23 says she surely will, right, in response to the
24 request for checking up on the medication that the
25 other inmate is supposed to keep on person.

1 And then she says, "I left you a 5-1C under
2 your door because I told that Alpha Alpha inmate I
3 would talk to you about his concern and get his
4 5-1C to the right person."

5 So that means getting a report of an incident
6 to the right person; is that right?

7 A. Yes, that's what a 5-1C would be, an incident
8 statement.

9 Q. Okay. And it says, "Supposedly he was scheduled
10 for a hearing two weeks ago."

11 Do you know what type of hearing?

12 A. I do not.

13 Q. Okay. Do you know what type of hearing they would
14 be talking about in a circumstance like this?

15 A. I can't without -- I mean I would just be
16 speculating.

17 Q. Okay. Well, speculate for me just for a second.

18 Is there some sort of like a hearing that
19 folks have from time to time to get out of Alpha
20 Alpha?

21 A. Yes. I mean, again, not knowing what kind of
22 hearing they are referencing, it could be a
23 disciplinary hearing, there could be a protective
24 custody hearing. It could, by all rights, be his
25 court hearings if he had any kind of appeals or

1 anything going on within the court system.

2 Q. Okay. So then it says, "Supposedly he was
3 scheduled for a hearing two weeks ago. Someone had
4 a death in their family and it has caused his
5 hearing to be postponed to a later date. He says
6 he's been good, hasn't had any write-ups and only
7 needs PCI."

8 What is PCI?

9 A. Protect custody.

10 Q. Okay. And what is the difference between Alpha
11 Alpha and protective custody?

12 A. Well, Alpha Alpha at that time was the designated
13 unit that replaced inmates that were pending that
14 had requested PC. So this would be -- PCI is
15 actually protective custody investigation, that's
16 what the PCI stands for.

17 Q. Okay. And I'm sorry that I just quite don't
18 understand the lingo quite as well. So pretend
19 like I'm four.

20 Physically or privileges wise, what would be
21 the difference between being in Alpha Alpha and
22 being in protective custody?

23 A. So really I mean Alpha Alpha -- Well, so -- Again,
24 so you understand the layout, Alpha Unit is the
25 entire unit. Within Alpha Unit you have Alpha

1 Alpha, Alpha Bravo, Alpha Charlie, Alpha Delta,
2 and, I believe, Alpha Echo, if my memory serves me
3 correctly. So they are pods within that particular
4 unit.

5 Q. Okay.

6 A. Alpha Alpha was the designated unit that we would
7 typically place inmates who had requested some
8 level of protection and, therefore, an
9 investigation would start. Not to say that the
10 inmate could not be housed in Alpha Bravo or Alpha
11 Charlie for these same type of reviews or
12 investigations, but primarily we went to Alpha
13 Alpha.

14 Really they were restricted to theirself to
15 make sure that -- to limit contact and for their
16 safety until the investigation was completed.

17 Trousdale did not have an approved protective
18 custody unit at the facility. So if a person was
19 found to have a need for protective custody through
20 the investigative process, then we would then
21 notify the state and this person who's been granted
22 protective custody and the state would then
23 coordinate by moving them, at availability, to a
24 facility that actually had a designated protective
25 custody housing unit or pod, whatever they were

1 referencing at that specific facility.

2 So hopefully that's helps.

3 Q. Okay, that does. That helps me a lot. And I now
4 understand, I think, the layout a little bit
5 better.

6 And so when this inmate says he's been good
7 and hasn't had any write-ups and only needs PCI,
8 does that mean PCI at that point would be being
9 transferred to a different facility through TDOC?

10 A. Well, again, I think our terminology in this email
11 is a little wrong. He's requesting PC. And a part
12 of that, PCI, we have to do -- there has to be an
13 investigative process to determine whether or not
14 there's something that can be substantiated to
15 approve the protective custody request.

16 And that's really -- And his part would be a
17 protective custody request. PCI is the actual
18 investigation.

19 Q. Okay. And so with a protective custody request, if
20 the investigation were to find that an inmate
21 needed protective custody -- if I understand you
22 correctly -- and you did not have protective
23 custody at that particular facility, you would
24 notify TDOC and then that inmate would be taken to
25 a different facility in order to give him

1 protective custody? Do I understand it correctly?

2 A. That's correct.

3 Q. Okay, very good.

4 Okay. So then it says, "He is most concerned,
5 more than anything, about getting his food bag next
6 week."

7 What's a food bag?

8 A. Again, I'm assuming here that he means -- there's
9 packages, quarterly packages, that inmates, by TDOC
10 policy, are allowed to order. And so my assumption
11 would be that that's what he's referencing.

12 Q. Okay. Then she says, "I don't understand the rules
13 of segregation. I wish I knew more. Am I correct
14 that if they RCA, they are not allowed commissary?"

15 What is RCA?

16 A. Refuse cell assignment.

17 Q. Okay. And what does that mean, refuse cell
18 assignment?

19 A. It means that at some point a staff member directed
20 an inmate to move from one housing location or one
21 cell location to another location and the inmate
22 said, "I'm not going."

23 Q. Okay. And then are there certain punishments that
24 happen if somebody disobeys an order for a cell
25 assignment?

1 A. It is a disciplinary infraction. So a person found
2 guilty could have disciplinary sanctions applied.

3 Q. Okay. And could one of those disciplinary
4 sanctions be a suspension of the ability to order
5 from the commissary?

6 A. Yes.

7 Q. Okay.

8 A. And that's typically just food items. Not
9 necessarily hygiene products or stationery, those
10 types of items.

11 Q. Okay. And when you say "food products," you mean
12 like extra food products? Not like chow that's
13 being served, but instead it would be like chips or
14 something extra?

15 A. That's correct. It's typically snack items or
16 something they want for comfort.

17 Q. Okay. And then she says, "If they are PCI, they
18 are allowed to purchase commissary, correct?"

19 Do you know if people that are pending
20 investigation for protective custody, if they are
21 allowed to purchase commissary?

22 A. Yes, they are.

23 Q. Okay. "He has been told by several people that
24 they are going to allow him to have his food next
25 week, and then someone else will come behind them

1 and tell them, no."

2 Is there ever a suspension of meals for anyone
3 as punishment at that facility?

4 A. No.

5 Q. Okay. The suspension for punishment would be for
6 commissary?

7 A. Again, that wouldn't be under the PCI. That's for
8 like an RCA. It's a different situation.
9 Protective custody is not punitive by nature -- or
10 by definition.

11 Q. Right. But RCA is?

12 A. Yes, ma'am.

13 Q. Okay. So then she says, "If they are PCI, they are
14 allowed to purchase commissary, correct? He has
15 been told by several people that they are going to
16 allow him to have his food next week and then
17 someone else will come behind them and tell them,
18 no."

19 So do you know what she's referring to there?

20 A. I do not.

21 Q. Okay. "I have witnessed this behavior myself. I
22 have heard officers tell them they aren't going to
23 feed them."

24 So if someone is in Alpha Alpha, for example,
25 are they allowed to go to chow or is chow brought

1 to them?

2 A. It's brought to them.

3 Q. Okay. And so if she's talking about an officer
4 telling someone that they are not going to feed
5 them, is it possible that she's talking about
6 someone not bringing them a chow tray?

7 A. Yeah, I can't speculate to what she's referencing
8 here.

9 Q. Is there ever a situation where it would be
10 appropriate to deny an inmate in Alpha Alpha, or
11 anywhere, a chow tray?

12 A. No.

13 Q. Okay. Is that ever done as punishment, officially?

14 A. No.

15 Q. Have you ever heard reports of people denying chow
16 trays unofficially?

17 A. No.

18 Q. Okay. Have you ever had any reports of any guards
19 or any staff at the facility denying anyone food at
20 any time?

21 A. Not that I can recall, no.

22 Q. Okay. "I have witnessed this behavior myself. I
23 have heard officers tell them they aren't going to
24 feed them. They aren't getting fed tonight."

25 How often are inmates fed at the facility?

1 A. Three times a day; breakfast, lunch, and dinner.

2 Q. Okay. "They aren't getting fed tonight. Keep on
3 and you won't get fed today or tomorrow, et cetera.
4 That pisses me off."

5 How often do the inmates get fed every day?

6 A. Three times a day.

7 Q. Three times a day.

8 And so if someone is saying they are not
9 getting fed today and you are not getting fed
10 tomorrow, do you have any idea what she could be
11 referring to?

12 A. I do not.

13 Q. Okay. If you were warden, which you were, and you
14 saw this email, how would you react to it?

15 A. Well, obviously it's -- any allegation of such, we
16 take that seriously. It would be investigated.
17 She would need to provide additional information
18 on -- provide more specific details as to who said
19 it, when did they say it, the location, who were
20 they referencing, as far as not getting fed.

21 This is a very generic allegation so we would
22 need more information to be able to determine if
23 it's accurate and, if so, what appropriate action
24 would be taken if we found that the person did, in
25 fact, make this allegation and this statement.

1 Q. Okay. So let's finish up with where she's at then.

2 "They really do not treat those Alpha Alpha
3 inmates humanely. They talk to them like dogs and
4 expect them to take it."

5 Did I read that correctly?

6 A. That's how it's written, yes.

7 Q. Okay. "I'm sure there are a few exceptions and
8 perhaps some good, fair, ethical officers that
9 treat them like they are human; however, I have yet
10 to see that displayed in Alpha Alpha."

11 Did I read that correctly?

12 A. That's how it's written, yes.

13 Q. Okay. And is there anything in that exchange that
14 would cause you concern as the warden?

15 A. Same level of concern as the initial statement.
16 Again, you're making -- If there's allegations of
17 inappropriate or unethical behaviors, more
18 information would be required and we would
19 investigate into it.

20 Q. Did you ever investigate behaviors of guards in the
21 Alpha Unit?

22 A. I'd have to go back and look. Just to recall from
23 memory, I can't.

24 Q. Okay. We'll continue.

25 "No wonder they act out and set fires and

1 wreak havoc on the officers. Outside of not
2 getting their medications as they are scheduled.
3 Mental health has a full-time job keeping up with
4 Alpha Alpha because of the way they are treated."

5 Did I read that correctly?

6 A. Yes, it's how it's written.

7 Q. "From meeting their basic needs, such as food,
8 water, and shelter (protecting them from popping
9 out of their cells)."

10 Did I read that correctly?

11 A. You did.

12 Q. Okay. What does it mean "protecting them from
13 popping out of their cells"?

14 A. I'm not sure what she's referencing. You know,
15 there was -- If an inmate was able to manipulate
16 the locking system on the door, then that could
17 actually allow them to exit the cell themselves.
18 And that's what I had heard, as the warden there,
19 "popping out of cells" that's typically what staff
20 are referencing.

21 Q. Okay. And is it concerning that inmates would be
22 able to manipulate the locks on their cells in
23 order to be able to get out?

24 A. It is concerning, and that's why we took
25 appropriate action, when identified. If an inmate

1 was found to be popping out of his cell, he was
2 subject to disciplinary. There was routine locking
3 mechanism inspections and checks for the locks.

4 And so, yes, this was a serious type of
5 situation that we took seriously and we took
6 appropriate action to address.

7 Q. Okay. And when did you -- when did you do that?

8 A. Throughout my tenure at Trousdale.

9 Q. Okay. So was there some sort of an inspection of
10 the locks after this email was written in 2019,
11 December?

12 A. I don't know whether it was following or even prior
13 to.

14 Q. Okay. If it was prior to, would they have problems
15 popping out of their cells if it was fixed?

16 A. Yes, ma'am. When you think of the volume of locks
17 within a prison system, there's opportunities. And
18 so there was daily inspections that were directed
19 to occur throughout. But to say that there wasn't
20 opportunity to manipulate a lock, with the volume,
21 would be an untruthful statement.

22 Q. Okay. And prisons are in the business of keeping
23 people who have been convicted of crimes, many
24 times dangerous crimes, locked in their cells; is
25 that right?

1 A. If necessary, yes, ma'am.

2 Q. Okay. And so isn't one of the basic tenants of
3 being able to keep someone locked up for their
4 safety and for others, is to make sure that the
5 locks work?

6 A. Yes. And that's the reasons that we had the
7 protocols that we had in place in place.

8 Q. Okay. And how is it that the locks didn't work?
9 Was that some sort of a design flaw or what's the
10 deal? Why weren't they working?

11 MR WELBORN, III: Object to the form.

12 A. Again, I can't speak to the design and I'm not,
13 obviously, a lock specialist. What I can say is
14 that inmates are -- they manipulate -- they
15 manipulate the locking mechanisms or various other
16 security devices in and outside of Trousdale. And
17 so that's why we have security practices and
18 inspection processes, to try to lessen opportunity.
19 But I don't know that it's realistic to say that
20 you're going to eliminate the ability when the
21 inmate has the access to manipulate the lock or
22 tamper with the locking device.

23 And this is a cell door, so it's their door.
24 They have access to go in and out and so,
25 therefore, the lock would be able to be messed with

1 by that inmate while that door is open.

2 Q. (BY MS. HERZFELD) Okay. And then it says -- it
3 says in the passage I just read to you, "Outside of
4 not getting their medications as they are
5 scheduled."

6 Do you know anything about people in Alpha
7 Alpha not getting their medications as scheduled?

8 A. Again, if a -- not specifically of what she's
9 referencing here. If there was an allegation of
10 such, we would investigate and then deal with that,
11 however appropriate, based on the outcome of the
12 investigation.

13 Q. Okay. And then to pick back up here. "I listen to
14 what they tell me, and I know you do as well.
15 There are some very cruel employees here and they
16 have no business in the field. They are simply in
17 the field because they are allowed to, and can, get
18 away with it. They could not behave in that manner
19 and talk to people the way they do out in the real
20 world."

21 Did I read that correctly?

22 A. You did.

23 Q. Okay. Do you know of any guards that were treating
24 prisoners in a cruel way?

25 A. Again, if it was an allegation or a report, we

1 would have investigated and addressed accordingly.

2 Q. Okay. "I told him I would come back and let him
3 know something. He was in Alpha Alpha 122. He
4 shared that his affiliation is Vice Lord. I know
5 they all can threaten us with behaviors and cutting
6 and check into medical for mental health, but the
7 reasons they are doing so is due to them not being
8 able to have their basic needs met. They tell me
9 they write the 5-1C's, but nothing is ever done or
10 they feel like they are done away with. I believe
11 them sometimes. I believe a lot of their bad
12 behaviors and their power struggles are reported,
13 yet when they turn them in to be placed in the
14 appropriate mailbox, et cetera, they are done away
15 with and nothing is resolved."

16 Did I read that correctly?

17 A. You read it correctly, as written.

18 Q. Okay. And so this employee of CoreCivic is saying
19 that she doesn't think that these prisoners in
20 Alpha Alpha are being treated correctly and that
21 the 5-1C's are not being responded to
22 appropriately; is she not?

23 A. She is writing it that way. What I'll say is that
24 she's also not putting in a lot of context that
25 would allow follow-up with regards to her

1 allegations.

2 Q. Okay. But she wrote it to Denise Davidson; is that
3 right?

4 A. That's correct.

5 Q. And Denise Davidson is an assistant warden?

6 A. That's correct.

7 Q. And she is one below you; is that right?

8 A. That's correct.

9 Q. So this is making an allegation here, expressing
10 her concerns to someone who is high up at the
11 prison; is she not?

12 A. It is going to Ms. Davidson, yes.

13 Q. Okay. And what action, if any, did Ms. Davidson
14 take on these complaints?

15 A. I do not know, sitting here today.

16 Q. Okay. And did she ever bring this to your
17 attention, these complaints?

18 A. Not that I can recall, no.

19 Q. Okay. Is this the first time that you've ever
20 heard any of these complaints?

21 A. Again, I heard of similar complaints, you know, to
22 some context. Now, whether these specifically or
23 this person specifically, I can't answer that.

24 Q. Okay. And when you say you've heard of similar
25 complaints and similar context, what do you mean?

1 A. You know, I heard complaints that, you know, a
2 person did not receive medications, and those would
3 be looked into and handled accordingly.

4 You know, those are, again, not unique
5 complaints, to some regard, specifically to
6 Trousdale. Throughout my career you'll see, from
7 time to time, concerns or allegations or
8 complaints, but with those they are investigated,
9 looked into, and then get handled and addressed
10 accordingly.

11 Q. Okay. And what about complaints of folks in Alpha
12 being treated like dogs or inhumanely, have you
13 ever heard complaints of that?

14 A. Not that I can recall specifically to that regard,
15 no.

16 Q. Okay. What about anywhere in the prison people
17 being treated inhumanly or being treated by like
18 dogs, have you ever heard any allegations of that?

19 A. Not that I can recall off the top of my head, no.

20 Q. Okay. Okay. I'm putting in front of you what has
21 previously been marked as Exhibit 7. Do you see it
22 in front of you?

23 A. Yes, ma'am, I can see it.

24 Q. Okay, great. And looking at this, it's a document
25 dated April 7th, 2020, regarding, "State of mind of

1 Inmates at Trousdale Prison."

2 Did I read that correctly?

3 A. Yes, ma'am.

4 Q. Okay. I will give you an opportunity to read it
5 before I question you on it, if that's okay. Just
6 tell me when you need me to scroll down.

7 A. (The witness reviewed the document.) Okay, I'll
8 need you to scroll up.

9 Q. Uh-huh.

10 A. (The witness reviewed the document.) Okay.

11 Q. Okay. You've had an opportunity to read it?

12 A. Yes, ma'am.

13 Q. Have you seen this document before?

14 A. I have not.

15 Q. Okay. And the letter went like this, "To Whom it
16 May Concern," from an inmate, where would it go?

17 A. To wherever the inmate addressed it to.

18 Q. Okay. And obviously it was kept in a file
19 somewhere because it was produced to me.

20 Who would be the person -- pardon me --
21 responsible for responding to inmate complaints?

22 A. It varied, based on the type of complaint.

23 Q. Okay. So let's go through this one.

24 "State of mind of Inmates at Trousdale Prison.

25 The following is a list of fixable problems at this

1 institution that are hanging on the precipice and
2 threatens to create a life-threatening result."

3 Is that something that you think the prison
4 should take seriously, prisoners saying here are
5 things that are going on and could be dangerous?

6 A. Yeah, I think that is, you know, things that should
7 be looked into, yes.

8 Q. Okay. So the first bullet point says, "Staff
9 members are ill-equipped to handle control of
10 inmates and use gangs to control their pods."

11 Did I read that correctly?

12 A. That's how it's written, yes.

13 Q. Okay. And have you ever heard allegations that
14 gangs are being used to control the pods by the
15 staff?

16 A. By the staff, no.

17 Q. Okay. Have you ever heard allegations that gangs
18 are being used to control the pods in general?

19 A. Not that they are being used. I heard that there
20 was -- you know, obviously there's concerns that
21 were shared with me about gang members, I guess,
22 preying on other gang members or non-affiliated
23 gang members.

24 Q. Okay. But what about controlling pods, is that one
25 of the things that you look out for is gangs

1 controlling particular pods?

2 A. Any inmate, whether it's gang or not, is not
3 authorized to have any level of supervision or
4 oversight over another inmate.

5 Q. Okay. Not officially, but what about unofficially?
6 I mean how do you prevent that from happening?

7 A. Same thing. About having staff monitor. And then,
8 obviously, if we have an inmate that's identified
9 as trying to run something or to supervise or
10 control a pod, we would address that inmate,
11 whether it was either; A, moving the inmate to a
12 different location, writing the inmate a
13 disciplinary and charging them with those types of
14 things, placing him in segregation.

15 There would be a battery of different ways
16 that that particular situation could be managed,
17 depending on the severity.

18 Q. Okay. Then the next one says, "Inmates are
19 placed in control of other inmates and given cart
20 blanc (sic) to roam freely and do whatever the
21 wish."

22 Did I read that correctly?

23 A. That's how it's written, yes.

24 Q. Okay. So that goes to the same thing we were just
25 talking about, which is inmates are in control of

1 other inmates. And you just said that that's not
2 policy, but that's something that you would have
3 the guards look out for and pay attention to to try
4 to interject if that were to be happening.

5 Did I understand your testimony correctly?

6 MR WELBORN, III: Object to form.

7 A. Yes.

8 THE WITNESS: I'm sorry.

9 Q. (BY MS. HERZFELD) Okay. And what about inmates
10 being able to roam freely and do whatever they
11 want? Is there a way that that could happen at the
12 facility?

13 A. Well, again, outside of lockdown, inmates are given
14 the latitude of walking around in the pod, going to
15 chow hall, going to medical. I wouldn't
16 necessarily indicate roam around freely. But if
17 they are not in a segregation setting then they are
18 in general population and they would have mobility,
19 yes.

20 Q. Okay. "Inmates who have created the problems are
21 always out, even after higher staff orders them to
22 get in. While inmates who give no problems are
23 stuck behind the doors."

24 Did I read that correctly?

25 A. That's how it's written, yes.

1 Q. Okay. And do you know what this inmate is
2 referring to here?

3 A. No, I don't. I can't --

4 Q. Always out versus stuck behind the doors, does that
5 mean people locked in their cell versus people who
6 are roaming freely?

7 MR WELBORN, III: Object to the form.

8 A. Again, I can't -- I mean based on what -- it's how
9 he has it written, but what his intent was, I can't
10 say.

11 Q. (BY MS. HERZFELD) What do you understand it to
12 mean?

13 A. Again, it sounds like it's allegations that inmates
14 are problematic. They are saying they are out of
15 segregation. And the ones that aren't problematic
16 are in segregation of some form.

17 Q. Okay. "Inmates who have been placed in segregation
18 after creating a problem are brought right back to
19 the same pod. Even after at RCA/check-in."

20 What is RCA/check-in?

21 A. Refused cell assignment and, my assumption, is that
22 he's referring to check-in as somebody who's
23 requested protective custody.

24 Q. Okay. Do you know if inmates who are placed in
25 segregation after creating a problem are brought

1 back to the same pods?

2 A. They could be, depending on the nature of the
3 infraction. Not everything results in a person
4 staying in segregation forever or being transferred
5 to another facility.

6 If the person has fulfilled whatever the
7 requirement was or the outcome of the disciplinary,
8 if appropriate, then they would potentially return
9 back to their pod.

10 Q. Okay. "Problem inmates are, quote, popping out of
11 their cells, and the ones in the cell who don't pop
12 out are getting punished as if they themselves
13 have."

14 Did I read that correctly?

15 A. That's how it's written, yes.

16 Q. Okay. So this is April of 2020, and we have
17 another complaint about inmates popping out of
18 their cells; is that right?

19 A. That's what's written here, yes.

20 Q. Okay. "Commissary and rec time are taken from
21 inmates who have not committed any offenses, yet
22 are punished as if they have."

23 Did I read that correctly?

24 A. Yeah, you did.

25 Q. Okay. And the next one, "Staff is outright

1 belligerent to inmates who have not committed any
2 offense, all the while catering to the individuals
3 who have threatened them."

4 Did I read that correctly?

5 A. You did read it correctly.

6 Q. Okay. Have you, during your time as warden or in
7 your knowledge as the CoreCivic representative,
8 have you ever known of any guards to have been
9 disciplined for affiliating with any particular
10 gang members in the prison?

11 A. I would need to review the disciplinary log, but
12 none that come to mind off the top of my head. But
13 I would need to review the disciplinary log to
14 answer fully.

15 Q. Okay. What about a staff being disciplined for
16 abusing any inmates, do you have any knowledge of
17 that?

18 A. When you say "abusing" --

19 Q. Physically or mentally.

20 A. Yes, there was at least one that was disciplined
21 and -- arrested and criminally charged, while I was
22 there.

23 Q. Okay. And what were the general circumstances of
24 that incident?

25 A. It was an excessive use of force following an event

1 where a case manager -- or a mental health
2 professional was assaulted by an inmate.

3 Q. Okay. And that person was criminally charged?

4 A. Yes, he was.

5 Q. Okay. Are there any others that you can think
6 of --

7 A. Again, without reviewing the disciplinary log, not
8 right off the top of my head, no.

9 Q. Okay. So then skipping forward, the very last
10 paragraph here. "We are not asking for you to go
11 easy on us, just simply the ones who have not
12 created the problem should not be punished. If you
13 treat us like animals, that is exactly how we will
14 behave. Please help the good inmates. God Bless
15 You, Daniel" looks like Miller, maybe, or Nielers.

16 Did I read that correctly, with the exception
17 of the name?

18 A. Yes, that's how it's written.

19 Q. Okay. And here he's complaining that he's being
20 treated like an animal; is he not?

21 A. I mean that's his allegation. Based off the way
22 it's written, it appears that way, yes.

23 Q. Okay. And what, if any, investigation was done in
24 response to this letter?

25 A. I can't answer that. I was not the warden there at

1 that time.

2 Q. Okay. And as a CoreCivic representative have you
3 been given information to be able to testify on
4 that?

5 A. No. This is the first I've seen this document.

6 Q. Okay. In keeping control -- I just want to make
7 sure I understand. So dealing with the pop-out
8 issue and dealing with gang member issues and
9 making sure that there aren't various inmates that
10 are trying to take control of pods, that's all
11 done -- I would assume that's a pretty
12 labor-intensive process; is that right?

13 A. It's a daily process, and it's part of the scope of
14 work and responsibilities of the correctional
15 officers and security staff as a whole.

16 Q. Okay. And how are they trained to monitor for
17 those types of things?

18 A. They are trained, the staff, when they come in,
19 preservice orientation, which I believe consists of
20 six weeks of training. Part of that is on-the-job
21 training with seasoned staff that would actually
22 show a new staff member the requirements in
23 realtime and processes.

24 So they would be trained in preservice, and
25 then you have periodic training that goes on

1 throughout the year, as well as in-service
2 training, which is a minimum. I believe that
3 Trousdale in-service was 48 hours annually. And
4 then, of course, you have the day-to-day
5 interactions with security supervisors that may
6 address things with staff informally.

7 Q. Okay. And so these are the things that the guards
8 are supposed to be looking out for during their
9 shifts, and it's part of their employment, if I
10 understood you correctly; is that right?

11 A. Yes, everything -- all security aspects are part of
12 that responsibility of the security staff.

13 Q. Okay. And is that to keep the inmates and the
14 staff safe?

15 A. Yes.

16 Q. Okay. And, in doing so, they have to gather a lot
17 of information and pay attention to a lot of stuff,
18 I would assume?

19 A. Yes. And that's what they are trained to do.

20 Q. Okay. And when you have insufficient staffing in a
21 facility does that make those jobs harder?

22 A. It could aid into some of that. I won't say it's
23 always the case, but it could aid, depending on the
24 number of staff, the experience level of the staff.
25 So I won't just cart blanchely (ph) say that that's

1 all the case, but there certainly could.

2 Q. Okay. If you will just give me one minute. If we
3 can go off the record for a second, I think I might
4 be finished. One second.

5 (A short break was taken.)

6 MS. HERZFELD: Okay, I lied. Back on the
7 record just for one second.

8 Q. (BY MS. HERZFELD) I think you've got the 30(b)(6)
9 Notice in front of you. That's Exhibit 1. If you
10 will turn with me to Page 4, Paragraph 4.

11 A. Paragraph 4 or No. 4?

12 Q. Page 4, Paragraph -- well, No. 4.

13 A. Okay, all right.

14 Q. Okay. "All actions taken or discussions held by
15 the CoreCivic board of directors to address
16 staffing issues at Trousdale or concerning staffing
17 issues at CoreCivic institutions more broadly."

18 Did I read that correctly?

19 A. Yes, ma'am, that's how it's written.

20 Q. Okay. And do you know at all about any discussions
21 held by the CoreCivic board of directors about
22 staffing issues at Trousdale?

23 A. I can't speak to specific discussions, as I would
24 not be privy to the actual discussions. I can
25 speak that as a warden there was many approvals

1 that were provided for incentive type. Whether it
2 was a relocation bonus, whether that was a
3 retention bonus, whether it was a recruitment-type
4 bonus.

5 There was discussions and approvals for
6 working with a local builder to build affordable
7 housing apartments there locally.

8 So I can speak to those approvals that were
9 provided, but specific discussions that may have
10 been -- the board may have had, I would not have
11 been privy to that.

12 Q. Okay. So you're not really prepared to testify on
13 the topic for No. 4 today; is that correct?

14 A. Not if you're looking for specific discussions that
15 may have been had with the board of directors.

16 Q. Yeah. It says, "All actions taken or discussions
17 held" by the board of directors.

18 So you don't have any information on
19 discussions or specific actions taken by the board
20 of directors, other than what you just told me?

21 A. No. Again, just mainly the approvals for funding
22 to support initiatives through either recruit,
23 retain, or retain staff.

24 Q. Okay. And looking at the paragraph numbered five,
25 "All actions taken or discussions held by CoreCivic

1 management to address staffing issues at Trousdale
2 or concerning staffing issues at CoreCivic
3 institutions more broadly."

4 And so is that more what you're talking about,
5 management decisions to increase bonuses and that
6 type of thing, in order to recruit more staff?

7 A. Yes.

8 Q. Okay. And who is the highest level person that
9 you've had communications with about staffing
10 issues at Trousdale?

11 A. That would have been Jason Medlin, who is the vice
12 president of operations.

13 Q. And how often would you say you spoke with
14 Mr. Medlin about staffing issues at Trousdale?

15 A. I can't give you -- I mean it was frequent with
16 regards to the various incentives and those types
17 of things. If I gave you a number, honestly it
18 would just be a guess.

19 Q. Okay.

20 A. But regular contact.

21 Q. You'd say more than a dozen?

22 A. In what period of time?

23 Q. Ever?

24 A. Oh, yes, ma'am.

25 Q. Okay, very good.

1 MS. HERZFELD: Okay. I don't think I
2 have any further questions, so I will pass the
3 witness. Thank you.

4 THE WITNESS: Thank you.

5 MR WELBORN, III: No questions.

6 MS. HASHEMIAN: No questions.

7 MS. HERZFELD: Thank you very much,
8 Warden Washburn. Hopefully I won't be seeing you
9 again for a while.

10 THE WITNESS: All right. So I'm good to
11 leave?

12 MS. HERZFELD: Fine by me.

13 (The signature of the witness was waived
14 and the deposition was adjourned at 10:00 a.m.)
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REPORTER'S CERTIFICATE

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